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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. **2010-654**

11 **MICHELLE LEE KOTARSKI**
12 **441 W. 3rd Street, Apt. 204**
13 **San Pedro, CA 90731**
Registered Nurse License No. RN 624395

A C C U S A T I O N

14 Respondent.

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16 Complainant alleges:

17 **PARTIES**

18 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
19 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about August 15, 2003, the Board of Registered Nursing issued Registered
22 Nurse License Number RN 624395 to Michelle Lee Kotarski (Respondent). The Registered
23 Nurse License expired on September 30, 2009, and has not been renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Registered Nursing (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 states, in pertinent part, that:

"The Board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct"

6. Section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

. . . .

"(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

7. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

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1 **Patient 2**

2 b. On or about January 9, 2008, Respondent used the controlled substance Morphine.

3 The circumstances are as follows:

4 At 1013 hours Respondent removed 10 mg of Morphine from the Pyxis machine for Patient
5 2. Respondent wasted 5 mg with another nurse. There is no indication on the MAR that the
6 additional 5 mg of Morphine was administered to Patient 2. There is also no record of this 5 mg
7 of Morphine being wasted.

8 At 1712 hours, Respondent removed 4 mg of Morphine from the Pyxis machine for Patient
9 2. Respondent wasted 1 mg with the Charge Nurse. The MAR documents that 3 mg of Morphine
10 was circled, indicating that Respondent did not give the remaining 3 mg of Morphine to Patient 2.
11 There is also no indication that this 3 mg of morphine was wasted.

12 A total of 8 mg of Morphine, therefore, was not accounted for.

13 **Patient 1**

14 c. On or about January 9, 2008, Respondent used the controlled substance Dilaudid. The
15 circumstances are as follows:

16 Respondent told Charge Nurse Arlene Mocsny (Mocsny) that Patient 1 had changed her
17 mind and did not want the Dilaudid which Respondent had removed from the Pyxis machine at
18 1734 hours. Respondent then wasted 2mg of Dilaudid with Mocsny in the room, however,
19 Mocsny was not sure if there was medication in the syringe. Respondent did not document the
20 wasted Dilaudid in her nursing notes. Respondent then claimed Patient 1 changed her mind again
21 and wanted the Dilaudid. Respondent then removed the Dilaudid from the Pyxis machine at 1749
22 hours. Respondent's behavior then became bizarre and erratic: she began yelling and swearing
23 loudly in the nurses' station. When asked to submit to a drug test Respondent refused and left the
24 hospital.

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20 LOUISE R. BAILEY, M.ED., RN
21 Interim Executive Officer
22 Board of Registered Nursing
23 Department of Consumer Affairs
24 State of California
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